

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TBT/W/74
27 September 1984

Special Distribution

Committee on Technical Barriers to Trade

LEGAL STATUS OF SIGNATORIES

Note by the Secretariat

1. At its meeting of 10 July 1984, the Committee on Technical Barriers to Trade requested the secretariat "to prepare a note on the legal status of countries that had signed but not Notified the Agreement, taking into account the provisions of Article 12.8 and 12.9 of the Agreement" (TBT/M/16, paragraph 12). The present note deals with this matter.
2. It is a well established legal rule that a government which has signed an agreement subject to ratification is only bound by the agreement - and a party to it - after its ratification. Article 14.1 of the Vienna Convention on the Law of Treaties of 23 May 1969 states: "the consent of a State to be bound by a treaty is expressed by ratification". The same principle applies if an agreement is signed "ad referendum", or subject to acceptance or approval.
3. While some confusion may be caused by the fact that some MTN agreements - but not the Agreement on Technical Barriers to Trade - use the expression "signatory" rather than "party" when describing the governments which have acceded to the agreement, it is quite clear from long-standing international legal practice that "signatory", or "signature" as used in the paragraphs of the MTN agreements relating to the acceptance of the agreements, refer to signatures which are not subject to ratification (or ad referendum, etc.).
4. At the end of the Tokyo Round, there was an informal understanding among governments having participated in the MTN to treat "full" parties to the agreements and countries which had signed them subject to ratification in the same manner during the first stages of operation of the agreements. This understanding related, however, only to administrative arrangements, i.e. the countries having signed but not ratified an agreement were seated among the parties, not among the observers, and were listed under the heading "representatives". It was certainly not intended to create any legal rights under the agreements for such governments. For example, countries that had not ratified the agreements were not invited to participate in the selection of the first chairman and vice-chairman of the Committee on Technical Barriers to Trade.
5. From the "Status of Legal Instruments" of GATT, it is clear that the entry into force of the MTN agreements depends on the date of the ratification, if signed subject to ratification, and not on the date of signature.
6. In summary, a signature subject to ratification but not yet ratified does not confer legal rights on the government concerned, though it may, in practice, give the government the possibility to participate in the work of the Committee pending notification.

AGREEMENT ON TECHNICAL BARRIERS TO TRADE

(a) Acceptances (Article 15, paragraph 1)

	Date of acceptance	Entry into force
Argentina (subject to ratification)	17 December 1979	
Ratification		
Austria (subject to ratification)	17 December 1979	
Ratification	28 May 1980	27 June 1980
Belgium (subject to ratification)	17 December 1979	
Ratification	7 May 1981	6 June 1981
Brazil	28 December 1979	1 January 1980
Czechoslovakia ¹	15 November 1982	15 December 1982
Canada	17 December 1979	1 January 1980
Chile (<i>ad referendum</i>)	25 October 1979	
Acceptance	12 March 1981	11 April 1981
Denmark (subject to ratification)	17 December 1979	
Ratification (except as regards its application to the Faroe Islands)	21 December 1979	1 January 1980
Egypt (subject to ratification)	28 December 1981	
Ratification		
Federal Republic of Germany	17 December 1979	1 January 1980
The Agreement on Technical Barriers to Trade shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the GATT- Secretariat within three months of the date of entry into force of the Agreement. ²		
Finland (subject to ratification)	17 December 1979	
Ratification	13 March 1980	12 April 1980
France	17 December 1979	1 January 1980
Greece (subject to ratification)	2 February 1981	
Ratification		
Hungary ³	23 April 1980	23 May 1980
India	9 February 1983	11 March 1983
Ireland	17 December 1979	1 January 1980
Italy	17 December 1979	1 January 1980
Japan (subject to completion of constitutional pro- cedures)	17 December 1979	
Acceptance	25 April 1980	25 May 1980
Republic of Korea	3 September 1980	3 October 1980
Luxembourg	17 December 1979	1 January 1980
Netherlands (subject to approval) ⁴	17 December 1979	
Approval	17 June 1981	17 July 1981
New Zealand	17 December 1979	1 January 1980
Norway (subject to acceptance)	17 December 1979	
Acceptance	28 December 1979	1 January 1980
Pakistan	21 May 1981	20 June 1981
Philippines	13 February 1981	15 March 1981
Romania	27 October 1980	26 November 1980
Rwanda (subject to ratification)	22 January 1982	
Ratification		
Singapore	3 June 1980	3 July 1980
Spain (subject to ratification)	9 May 1980	
Ratification	19 June 1981	19 July 1981
Sweden (subject to ratification)	17 December 1979	
Ratification	20 December 1979	1 January 1980

GATT—Status of Legal Instruments

	Date of acceptance	Entry into force
Switzerland	17 December 1979	1 January 1980
United Kingdom (subject to approval in respect of its metropolitan territory)	17 December 1979	
Approval	19 February 1980	20 March 1980
In respect of the territories for which it has international responsibility except for: Antigua, Bermuda, Brunei, Cayman Islands, Montserrat, St. Kitts-Nevis, Sovereign Base Areas Cyprus, Virgin Islands	17 December 1979	1 January 1980
United States	17 December 1979	1 January 1980
Yugoslavia (subject to approval)	16 September 1980	
Approval	18 August 1982	17 September 1982
European Economic Community	17 December 1979	1 January 1980

(b) Acceptances (Article 15, paragraph 2)

	Date of acceptance	Entry into force
Tunisia ⁵	17 February 1981	19 March 1981

¹ Czechoslovakia declares in respect of the declaration made by the Federal Republic of Germany that it takes cognizance of it only to such a degree and to such an extent as compatible with the Quadripartite Agreement of September 3, 1971.

² No such declaration was received by the GATT secretariat.

³ Hungary declares in respect of the declaration made by the Federal Republic of Germany: This Agreement deals exclusively with technical barriers to trade. Nothing in this Agreement can affect the Quadripartite Agreement of 3 September 1971.

⁴ The Kingdom of the Netherlands applies the Agreement provisionally, in respect of the Kingdom in Europe, as of 1 January 1980, and, in respect of the Kingdom as a whole including the Netherlands Antilles, as of 19 September 1980.

⁵ The Government of Tunisia, following its deposit on 21 October 1980 of an instrument relating to its acceptance of the Agreement, deposited on 17 February 1981 an instrument confirming the terms of its acceptance, in accordance with the provisions of paragraph 2 of Article 15 of the Agreement, as agreed with the Parties to the Agreement in the Committee on Technical Barriers to Trade on 4 February 1981.